



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Comprehensive Marketing Systems, Inc.

File: B-238595

Date: May 18, 1990

James H. Heffernan, Esq., Baker & Daniels, for the protester.

Carolyn B. Lieberman, Esq., Department of Housing and Urban Development, for the agency.

Christina Sklarew, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is dismissed as untimely where protest was filed almost 7 months after protester received notice of award; protester has not met its obligation of diligently pursuing the basis of its protest.

DECISION

Comprehensive Marketing Systems, Inc. (CMS), protests the award of a contract to Computer Data Systems, Inc. (CDS), under request for proposals (RFP) No. HC-15571, issued by the Department of Housing and Urban Development (HUD) for the performance of cash management services for HUD's Section 312 Rehabilitation Loan Program. We dismiss the protest as untimely.

The RFP was issued in June 1988. The agency received two offers by August 16, the date for receipt of initial proposals. After conducting discussions and receiving best and final offers (BAFOs) from the two offerors, HUD awarded the contract to CDS on June 7, 1989. The agency states that it advised CMS that it had not been selected for the award by letter dated June 28. The protester states, in its initial protest letter, that it was "not formally advised of the awards" made under this solicitation and a subsequent solicitation until January 16, 1990, and did not have sufficient facts to support a protest until the agency held a debriefing on February 2, 1990.

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Our Bid Protest Regulations require that protests be filed not later than 10 days after the basis for protest is known or should have been known. 4 C.F.R. § 21.2(a)(2) (1989). In addition, it is incumbent upon a protester to diligently pursue the information necessary to determine its basis of protest; the protester may not sit idly by simply waiting to receive that information. John W. Gracey, B-232156.2, Jan. 23, 1989, 89-1 CPD ¶ 50.

In its report, the agency, in response to the protester's statement that its protest was timely filed within 10 working days of the debriefing, advises that by letter of June 28, 1989, it notified the protester of the award to CDS and invited the firm to request a debriefing. Further, the agency points out that the protester is the incumbent master servicer for the section 312 program and is required to work with CDS as the cash manager on a continual basis. The agency asserts that it is inconceivable under these circumstances that the protester was unaware of the contract award for the 7 month period after the award had actually occurred.

In its comments on the agency report, the protester does not deny it received the notice of award dated June 28. Rather it insists that it did not have the factual information necessary to submit its protest until the February 2 debriefing. However, this does not excuse its delay of approximately 7 months from notice of award to request the debriefing. CMS has failed to satisfy the requirement for diligent pursuit. American Electro-Coatings Corp., B-225417, Oct. 28, 1986, 86-2 CPD ¶ 487.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger
Associate General Counsel